



Signed and Filed: June 8, 2022

A handwritten signature in black ink, appearing to read "Hannah L. Blumenstiel", is written over a horizontal line.

HANNAH L. BLUMENSTIEL
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re:)	Case No. 19-31024 HLB
)	
RICHARD TOM,)	Chapter 7
)	
Debtor.)	
)	
MARK NG, KENDALL NG, and)	
LORAIN WONG,)	Adv. Proc. No. 19-3065 HLB
)	
Plaintiffs,)	
v.)	
)	
RICHARD TOM,)	
)	
Defendant.)	

SEVENTH ORDER REGARDING DISCOVERY DISPUTE

On or about May 31, 2022, the court received a letter (the "May 31 Letter") from counsel for Plaintiffs Mark Ng, Kendall Ng, and Loraine Wong, pursuant to Paragraph D of the court's Practices & Procedures. Plaintiffs' May 31 Letter requests the court's assistance in resolving yet another discovery dispute that has arisen between Plaintiffs and third parties Green Oasis L.P. ("GOLP") and Pacific Golden Asia LLC ("PGA").

1 In its Third Order Regarding Discovery Dispute issued March
2 31, 2022,¹ the court ordered GOLP and PGA to "designate a
3 competent witness, capable of providing complete and accurate
4 testimony on GOLP and PGA's behalf, pursuant to Civil Rule
5 30(b)(6)"² no later than April 8, 2022. This relief became
6 necessary due to the inability of GOLP and PGA's then-designated
7 witness (Ms. Kenesha Fudge) to testify fully and accurately.

8 According to the May 31 Letter, GOLP and PGA complied with
9 the Third Order on April 15, 2022, when they designated Ms.
10 Bonita Miller as their witness under Civil Rule 30(b)(6).³ Upon
11 receiving word of Ms. Miller's designation, Plaintiffs' counsel
12 requested her contact information, but received no response.

13 On or about May 6, 2022, Plaintiffs served amended
14 deposition and document subpoenas on GOLP and PGA by mailing them
15 to Defendant Richard Tom and to Ms. Fudge. Plaintiffs do not
16 explain why service of these subpoenas on Mr. Tom and Ms. Fudge -
17 which were intended to compel the attendance of *Ms. Miller* at
18 GOLP and PGA's depositions - was proper.

19 According to the May 31 Letter, GOLP's deposition was set
20 for May 17, 2022. Plaintiffs appeared and were prepared to
21 proceed. No one appeared for GOLP. PGA's deposition allegedly
22 was scheduled for May 23, 2022, but after no one appeared for
23

24
25 ¹ Dkt. 78 (the "Third Order").

26 ² Unless otherwise indicated, all citations to a "Civil Rule" shall refer to
27 one of the Federal Rules of Civil Procedure and all citations to a "Bankruptcy
28 Rule" shall refer to one of the Federal Rules of Bankruptcy Procedure.

³ Civil Rule 30 applies to this proceeding in its entirety in accordance with
Bankruptcy Rule 7030.

1 GOLP, Plaintiffs took the May 23 deposition off calendar, so as
2 not to incur unnecessary expenses.

3 Plaintiffs ask the court to: **(1)** suspend the current Fact
4 Discovery Deadline of June 30, 2022 to the extent necessary to
5 complete GOLP and PGA's deposition; **(2)** suspend the Expert
6 Discovery deadline of September 28, 2022⁴; **(3)** permit Plaintiffs
7 to file a motion for sanctions and for a finding of contempt as
8 to GOLP and PGA for their alleged failure to comply with the
9 court's Third Order, as well as with their obligation to
10 designate and produce a witness capable of providing competent,
11 complete, and accurate testimony; **and (4)** order GOLP and PGA to
12 produce Ms. Miller for depositions prior to June 30, 2022.

13 After reviewing the May 31 Letter, the court instructed
14 GOLP, PGA, Mr. Tom, and Ms. Fudge (the court has no contact
15 information for Ms. Miller) to respond no later than 12:00 p.m.
16 on June 8, 2022. The court warned that any failure to timely
17 respond to the May 31 Letter would result in the court deeming
18 them unopposed to the relief sought. The court has not received
19 any responses to the May 31 Letter.

20 The court takes Plaintiffs' allegations very seriously, but
21 it must ensure that Ms. Miller is properly served with subpoenas.
22 Accordingly, the court **ORDERS** as follows:

23 **1.** No later than **June 15, 2022**, Ms. Fudge and/or Mr. Tom
24 shall send an email to Courtroom Deputy Dan Sondheim at
25 dan_sondheim@canb.uscourts.gov, with cc: to Kathryn Diemer,

27 ⁴ Plaintiffs justify this request by explaining that "information from GOLP
28 and PGA is necessary for Plaintiffs to educate their expert appraiser who is
to value GOLP and Richard Tom's prior interests in GOLP."

1 providing an accurate email address and an accurate mailing
2 address for Ms. Bonita Miller.

3 **2.** The June 30, 2022 Fact Discovery Deadline; July 27,
4 2022 Expert Disclosure Deadline; August 29, 2022 Rebuttal Expert
5 Disclosure Deadline; and September 28, 2022 Expert Discovery
6 Deadline are hereby **SUSPENDED** pending the court's final ruling on
7 this discovery dispute and completion of any discovery required
8 by such ruling.

9 **3.** Failure to timely and fully comply with this order may
10 result in the issuance of an order to show cause re: sanctions
11 against the non-compliant party.

12 **4.** The court will issue a further order after June 15,
13 2022.

14
15 ****END OF ORDER****
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